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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR 08-00938 LHK
)	
Plaintiff,)	UNITED STATES' SENTENCING
)	MEMORANDUM
v.)	
)	Date: January 14, 2015
JAMIE HARMON,)	Time: 9:30 a.m.
)	Court: Honorable Lucy H. Koh
Defendant.)	

INTRODUCTION

On July 20, 2010, defendant Jamie Harmon (hereinafter "the defendant") was convicted after a trial of five counts of money laundering, in violation of 18 U.S.C. § 1956(A)(i)(b)(i). Sentencing is scheduled to take place on January 14, 2015 at 9:30 a.m. before this Court. The government submits the following sentencing memorandum in order to (1) discuss the applicable guideline calculations, and (2) advise the Court of its sentencing recommendation, taking into account the sentencing guideline range and other sentencing factors in 18 U.S.C. § 3553(a).

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DISCUSSION

A. The Legal Framework for Sentencing

The Ninth Circuit has provided the courts with the basic framework for engaging in the sentencing process. In United States v. Carty, 520 F.3d 984, 991 (9th Cir. 2008), the Court explained that “[t]he overarching statutory charge for a district court is to ‘impose a sentence sufficient, but not greater than necessary’ to reflect the seriousness of the offense, promote respect for the law, and provide just punishment; to afford adequate deterrence; to protect the public; and to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment. 18 U.S.C. § 3553(a) and (a)(2).”

The starting place in the sentencing process is the determination of the applicable sentencing guideline range. Id. “While the Guidelines are to be respectfully considered, they are one factor among the § 3553(a) factors that are to be taken into account in arriving at an appropriate sentence.” Id. “The district court should then consider the § 3553(a) factors to decide if they support the sentence suggested by the parties.” Id. The district court “may not presume that the Guidelines range is reasonable,” and “must an individualized determination based on the facts.” Id.

As discussed below, the government has followed this framework in arriving at its sentencing recommendation in this case.

B. The Applicable Sentencing Guidelines

1. The Guidelines Calculation

The government agrees with the sentencing guideline calculation contained in the Presentence Report (“PSR”), which is outlined below:

- | | | |
|----|---|----|
| a. | Base Offense Level: | 16 |
| | (U.S.S.G. § 2S1.1(a)(2), base offense level is 8 plus | |
| | the amount of laundered funds pursuant to §2B1.1(b)(1)(E) - loss) | |
| | between \$70,000 and \$120,000) | |
| b. | Specific offense characteristics: | +2 |
| | (U.S.S.G. § 2S1.1(b)(2)(B) – defendant convicted of | |
| | 18 U.S.C. § 1956) | |
| c. | Adjusted Offense Level: | 18 |

An adjusted offense level of 18 when indexed with Criminal History Category I results in an

1 advisory guideline sentence of 27 to 33 months imprisonment.

2 **C. Determination of the Appropriate Sentence in Light of the Applicable Guideline Range**
 3 **And the Factors in 18 U.S.C. § 3553(a)**

4 After considering the Sentencing Guidelines and factors outlined in 18 U.S.C. § 3553(a),
 5 the government recommends that the Court impose of sentence of 30 months to be followed by three
 6 years of supervised release. Such a sentence is sufficient, but not greater than necessary, to achieve the
 7 goals of sentencing.

8 **1. The Nature and Circumstances of the Offense**

9 In terms of the nature of circumstances of the offense, there is no question that the offense here is
 10 very serious. The offense conduct is accurately described in the PSR, and the Court is familiar with the
 11 facts of the case. PSR, ¶¶ 7-20. The defendant, who was an experienced criminal attorney, offered to
 12 accept two checks issued to Silicon Valley Resale totaling over \$127,000 from her client, Christian
 13 Pantages. She was well aware of the illegal nature of the checks as evidenced at trial by the testimony of
 14 Christian Pantages, Ingrid Harry, Yan Ebyam, and Assistant Deputy District Attorney James Sibley. See
 15 RT 930-34; 967-70; 721-35; 558-562; 572-573; 577. Such egregious conduct warrants a lengthy
 16 custodial sentence.

17 **2. The History and Characteristics of the Defendant**

18 The PSR details that the defendant had a tough upbringing. She was subjected to emotional and
 19 physical abuse by her father, and her father physically abused her mother. PSR, ¶¶ 48-49, 53. Despite
 20 her difficult childhood, the defendant excelled academically by being an honor student in high school,
 21 obtaining a Bachelor of Arts degree in psychology from Reed College and a law degree from Santa
 22 Clara University. PSR, ¶¶ 76-78. She also had a career as a Deputy District Attorney with the Santa
 23 Clara District Attorney's Office and operated her own law firm for over a decade. PSR, ¶¶ 82-83.
 24 Furthermore, she has no criminal history, has a supportive family, and acted as caretaker for a friend
 25 who suffered from a terminal illness. PSR, ¶¶ 40, 60-61.

26 The government has two areas of concern that are inconsistent with the positive circumstances
 27 discussed above. First, the defendant has never accepted any responsibility for the instant offense. She
 28 did not discuss the offense with the Probation Officer nor did she submit a statement for the PSR.

1 Instead, the defendant informed the Probation Officer that her use of Vicodin, which was prescribed in
2 2003, contributed to the offense. PSR, ¶ 73. She has not provided an explanation about how the drug
3 allegedly contributed to her crime and she has not provided any medical documentation regarding her
4 use of the drug during the Fall of 2003.

5 Second, the government is concerned about the defendant's actions as an attorney prior to her
6 suspension from the State Bar of California and after her conviction in July 2010. The government
7 recognizes that the State Bar, during a secondary review of her conduct in May 2010, found that her
8 "misconduct primarily involved mismanagement of her practice, not dishonesty or moral turpitude."
9 PSR, ¶ 82. However, at least in one instance, the defendant made false representations to a Superior
10 Court Judge in a matter involving client funds. In January 2010, an individual identified by the initials
11 "S.M." hired the defendant to represent two brothers, identified by the initials "J.L." and "R.L." in two
12 separate matters.¹ "J.L." was a minor, and his guardians were "D.B." and "C.B." with "S.M." was a
13 proposed successor guardian. The defendant agreed to represent "J.L." for a \$15,000 fee and "R.L." for
14 a \$30,000 fee. See Attachment A, State Bar Complaint and Attachment B, State Bar Memorandum.

15 In February 2010, before the defendant was suspended by the State Bar of California, she
16 convinced a Superior Court Judge in Monterey County to release \$45,000 that was in a locked account
17 to pay for "J.L.'s" legal fees. The minor was accused of attempted murder, and his deceased mother left
18 the money for him. The defendant informed the Superior Court Judge that the funds were to be used
19 towards a flat fee for the representation of "J.L." in a criminal matter. See Attachment C, Superior Court
20 Transcript, at p. 3-4. She never informed the Superior Court Judge that she was charged with money
21 laundering and going to trial in Federal Court. In addition, she failed to inform the Superior Court Judge
22 that the funds were also to be used to defend "R.L.," who was accused of attempted murder in a separate
23 case. The funds were released and "S.M." withdrew \$45,000 to pay the defendant. See Attachment B.

24 After the defendant's conviction, and while on inactive status, the defendant signed a declaration
25 on April 22, 2011 informing the Superior Court Judge that she had been convicted of money laundering
26 in Federal Court, and suspended by the State Bar of California. She also provided an accounting of the
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28 ¹ The government has redacted the names of the individuals from the documents, and will
provide unredacted copies to the Court and defense counsel.

1 funds that were used in “J.L.’s” criminal case. In the accounting, she misrepresented the fact that “J.L.’s”
 2 funds were used only for his defense. See Attachment D, Declaration and Superior Court File. The
 3 defendant, on October 9, 2012, submitted a letter through her attorney to the State Bar of California
 4 confirming that the funds were to be used for both cases. See Attachment E, Letter.

5 The defendant’s conduct, at least in this situation, demonstrates that her lack of respect for the
 6 law. Accordingly, the government submits that a custodial sentence is justified.

7 **3. The Need for the Sentence to Reflect the Seriousness of the Offense, Promote Respect**
 8 **for the Law, and Provide Just Punishment and Deterrence**

9 The government strongly believes that a substantial sentence of imprisonment - 30 months - is
 10 necessary in order to reflect the seriousness of the offense, promote respect for the law, and provide
 11 deterrence. There is no question that the defendant has already suffered from her actions by losing her
 12 license to practice law. Nonetheless, a custodial sentence is warranted to reflect the gravity of the
 13 offense, especially in light of the defendant’s experience for nearly three decades as a criminal lawyer.

14 Coupled with this is the fact that it is imperative that the Court convey to the legal community
 15 that it will not tolerate attorneys who abuse their client-trust accounts and will severely sanction such
 16 conduct. A custodial sentence will promote respect for the law and likely deter attorneys who consider
 17 engaging in illegal conduct. In addition, a custodial sentence will show the non-legal community that the
 18 Court will punish attorneys who commit criminal offenses.

19 **CONCLUSION**

20 In full consideration of the defendant’s history and characteristics together with the other goals
 21 of sentencing, the government respectfully requests that the Court sentence the defendant to 30 months
 22 imprisonment followed by three years supervised release. The government has reviewed the defendant’s
 23 financial situation as outlined in the PSR and defers to the Probation Officer’s request that the defendant
 24 has the ability to pay a \$6,000 fine. If the Court finds that the defendant does not have the ability to pay

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1 a fine, the government requests the Court require the defendant to complete 300 hours of community
2 service. The Court is required to impose a \$500.00 special assessment.

3 DATED: 1/7/14

Respectfully submitted,

4 MELINDA HAAG
United States Attorney

5
6 /s/
SUSAN KNIGHT
Assistant United States Attorney